

REMARKS

Claims 1-14 are pending in the instant application.

Claims 1-9 have been cancelled herewith, without prejudice.

The Title of the application has been amended herewith. Applicants submit no new matter has been added by way of this amendment.

Claims 1 and 13 has been amended herewith. Applicants submit no new matter has been added by way of this amendment.

Claim 13 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants maintain the rejection has been rendered moot in light of the present amendment, wherein the amount of fluorinated monomer has been amended. Applicants request withdrawal of the rejection.

Claims 10, 12, and 14 stand rejected under 35 U.S.C. § 102(b) as anticipated by or in the alternative under 35 U.S.C. § 103(a) as obvious over Fields *et al.* (U.S. Pat. No. 3,166,508). Applicants respectfully traverse the rejection and request withdrawal of same.

Applicants' invention provides an acrylate copolymer product prepared by a staged process of forming acrylate copolymer by solution polymerization, wherein at least two acrylate monomers comprise ethyl acrylate and 2-ethylhexyl acrylate and said one monomer is 2-ethylhexyl acrylate, and further wherein the weight average molecular weight of the total copolymer of the first stage and the second stage being about 2000 to 250,000 Daltons as described and claimed.

Fields *et al.* teach a composition of hydrocarbon oils having foaming tendencies and an added alkyl acrylate polymer at a weight percent of less than 0.06% to control foaming. Fields *et al.* do not teach or suggest the acrylate copolymer product of Applicants' invention. Further, Fields *et al.* do not teach or suggest any process for preparing the alkyl acrylate polymers of Applicants' invention.

The Examiner has stated in the Office Action mailed July 26, 2005, that the acrylate comonomer composition of Fields *et al.* is "substantially similar" to that of Applicants' invention. Further, the Examiner has also stated that the weight average molecular weight of the total copolymer of Fields *et al.* is less than 10,000 Daltons.

Applicants have amended Claim 1 to indicate that the molecular weight of the polymer produced is greater than 10,000. Fields does not teach or suggest a polymer with this molecular weight.

Applicants maintain that Applicants' invention is clearly not anticipated by Fields *et al.*, as all elements of Applicants' invention are not disclosed by Fields *et al.* Specifically, the "substantially identical" test as stipulated by the Examiner is not a correct test for determining anticipation by a reference. Further, Applicants maintain that Fields *et al.* does not teach or suggest Applicants' invention, and therefore a *prima facie* case of obviousness has not been established. Applicants respectfully request withdrawal of the rejection.

Claims 11 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fields *et al.* in view of Tatsu *et al.* (JP 59173109). Applicants respectfully traverse the rejection and request withdrawal of same.

Applicants' invention is as described above.

Fields is as described above.

Tatsu teaches defoaming agents containing trifluorochloroethylene. Tatsu does not teach or suggest a process for producing the acrylate polymers of Applicants' invention.

Applicants submit that Fields or Tatsu, alone or in combination, do not teach or suggest, nor render obvious, the process for producing the acrylate copolymer of Applicants' invention. A *prima facie* case of obviousness has not been established. Applicants request withdrawal of the rejection.

CONCLUSION

Applicants respectfully request allowance of now pending Claims 10-14. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to call Applicants' undersigned attorney in an effort to resolve such issues.

Respectfully submitted,

LATHROP & GAGE L.C.

A handwritten signature in black ink, appearing to read "Janelle D. Strode", is written over a horizontal line.

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